

Union Calendar No. 126

111TH CONGRESS
1ST SESSION

H. R. 1080

[Report No. 111–228]

To strengthen enforcement mechanisms to stop illegal, unreported, and unregulated fishing, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2009

Ms. BORDALLO (for herself, Mr. ABERCROMBIE, Mr. FALEOMAVAEGA, Mr. FARR, Mrs. CHRISTENSEN, and Mr. SABLAN) introduced the following bill; which was referred to the Committee on Natural Resources

JULY 24, 2009

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on February 13, 2009]

A BILL

To strengthen enforcement mechanisms to stop illegal, unreported, and unregulated fishing, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Illegal, Unreported, and*
 3 *Unregulated Fishing Enforcement Act of 2009”.*

4 **SEC. 2. AMENDMENTS TO THE HIGH SEAS DRIFTNET FISH-**
 5 **ING MORATORIUM PROTECTION ACT.**

6 (a) *ADMINISTRATION AND ENFORCEMENT.*—Section
 7 606 of the High Seas Driftnet Fishing Moratorium Protec-
 8 tion Act (16 U.S.C. 1826g) is amended by inserting before
 9 the first sentence the following:

10 “(a) *IN GENERAL.*—The Secretary and the Secretary
 11 of the department in which the Coast Guard is operating
 12 shall enforce this title, and the Acts to which this section
 13 applies, in accordance with this section. Each such Sec-
 14 retary may, by agreement, on a reimbursable basis or other-
 15 wise, utilize the personnel services, equipment (including
 16 aircraft and vessels), and facilities of any other Federal
 17 agency, and of any State agency, in the performance of such
 18 duties.

19 “(b) *ACTS TO WHICH SECTION APPLIES.*—This section
 20 applies to—

21 “(1) *the Pacific Salmon Treaty Act of 1985 (16*
 22 *U.S.C. 3631 et seq.);*

23 “(2) *the Dolphin Protection Consumer Informa-*
 24 *tion Act (16 U.S.C. 1385);*

25 “(3) *the Tuna Conventions Act of 1950 (16*
 26 *U.S.C. 951 et seq.);*

1 “(4) *the North Pacific Anadromous Stocks Act of*
2 *1992 (16 U.S.C. 5001 et seq.);*

3 “(5) *the South Pacific Tuna Act of 1988 (16*
4 *U.S.C. 973 et seq.);*

5 “(6) *the Antarctic Marine Living Resources Con-*
6 *vention Act of 1984 (16 U.S.C. 2431 et seq.);*

7 “(7) *the Atlantic Tunas Convention Act of 1975*
8 *(16 U.S.C. 971 et seq.);*

9 “(8) *the Northwest Atlantic Fisheries Convention*
10 *Act of 1995 (16 U.S.C. 5601 et seq.); and*

11 “(9) *the Western and Central Pacific Fisheries*
12 *Convention Implementation Act (16 U.S.C. 6901 et*
13 *seq.).*

14 “(c) *ADMINISTRATION AND ENFORCEMENT.—The Sec-*
15 *retary shall prevent any person from violating this title,*
16 *or any Act to which this section applies, in the same man-*
17 *ner, by the same means, and with the same jurisdiction,*
18 *powers, and duties as though sections 308 through 311 of*
19 *the Magnuson-Stevens Fishery Conservation and Manage-*
20 *ment Act (16 U.S.C. 1858 through 1861) were incorporated*
21 *into and made a part of and applicable to this title and*
22 *each such Act.*

23 “(d) *SPECIAL RULES.—*

24 “(1) *IN GENERAL.—Notwithstanding the incor-*
25 *poration by reference of certain sections of the Mag-*

1 *nuson-Stevens Fishery Conservation and Management*
2 *Act under subsection (c), if there is a conflict between*
3 *a provision of this subsection and the corresponding*
4 *provision of any section of the Magnuson-Stevens*
5 *Fishery Conservation and Management Act so incor-*
6 *porated, the provision of this subsection shall apply.*

7 “(2) *ADDITIONAL ENFORCEMENT AUTHORITY.—*
8 *In addition to the powers of officers authorized pursu-*
9 *ant to subsection (c), any officer who is authorized by*
10 *the Secretary, or the head of any Federal or State*
11 *agency that has entered into an agreement with the*
12 *Secretary under subsection (a), to enforce the provi-*
13 *sions of any Act to which this section applies may,*
14 *with the same jurisdiction, powers, and duties as*
15 *though section 311 of the Magnuson-Stevens Fishery*
16 *Conservation and Management Act (16 U.S.C. 1861)*
17 *were incorporated into and made a part of each such*
18 *Act—*

19 “(A) *search or inspect any facility or con-*
20 *veyance used or employed in, or which reason-*
21 *ably appears to be used or employed in, the stor-*
22 *age, processing, transport, or trade of fish or fish*
23 *products;*

1 “(B) inspect records pertaining to the stor-
2 age, processing, transport, or trade of fish or fish
3 products;

4 “(C) detain, for a period of up to 5 days,
5 any shipment of fish or fish product imported
6 into, landed on, introduced into, exported from,
7 or transported within the jurisdiction of the
8 United States, or, if such fish or fish product is
9 deemed to be perishable, sell and retain the pro-
10 ceeds therefrom for a period of up to 5 days;

11 “(D) make an arrest, in accordance with
12 any guidelines which may be issued by the Attor-
13 ney General, for any offense under the laws of
14 the United States committed in the person’s
15 presence, or for the commission of any felony
16 under the laws of the United States, if the person
17 has reasonable grounds to believe that the person
18 to be arrested has committed or is committing a
19 felony;

20 “(E) search and seize, in accordance with
21 any guidelines that are issued by the Attorney
22 General; and

23 “(F) execute and serve any subpoena, arrest
24 warrant, search warrant issued in accordance
25 with rule 41 of the Federal Rules of Criminal

1 *Procedure, or other warrant or civil or criminal*
2 *process issued by any officer or court of com-*
3 *petent jurisdiction.*

4 “(3) *DISCLOSURE OF ENFORCEMENT INFORMA-*
5 *TION.—The Secretary may disclose, as necessary and*
6 *appropriate, information, including information col-*
7 *lected under joint authority of the Magnuson-Stevens*
8 *Fishery Conservation and Management Act (16*
9 *U.S.C. 1801 et seq.) and the Atlantic Tunas Conven-*
10 *tion Act of 1975 (16 U.S.C. 71 et seq.) or the Western*
11 *and Central Pacific Fisheries Convention Implemen-*
12 *tation Act (16 U.S.C. 6901 et seq.) or other statutes*
13 *implementing international fishery agreements, to*
14 *any other Federal or State government agency, the*
15 *Food and Agriculture Organization of the United Na-*
16 *tions, the secretariat or equivalent of an international*
17 *fishery management organization or arrangement*
18 *made pursuant to an international fishery agreement,*
19 *or a foreign government, if—*

20 “(A) *such government, organization, or ar-*
21 *rangement has policies and procedures to protect*
22 *such information from unintended or unauthor-*
23 *ized disclosure; and*

24 “(B) *such disclosure is necessary—*

1 “(i) to ensure compliance with any law
2 or regulation enforced or administered by
3 the Secretary;

4 “(ii) to administer or enforce any
5 international fishery agreement to which the
6 United States is a party;

7 “(iii) to administer or enforce a bind-
8 ing conservation measure adopted by any
9 international organization or arrangement
10 to which the United States is a party;

11 “(iv) to assist in any investigative, ju-
12 dicial, or administrative enforcement pro-
13 ceeding in the United States; or

14 “(v) to assist in any law enforcement
15 action undertaken by a law enforcement
16 agency of a foreign government, or in rela-
17 tion to a legal proceeding undertaken by a
18 foreign government.

19 “(e) *PROHIBITED ACTS.*—It is unlawful for any per-
20 son—

21 “(1) to violate any provision of this title or any
22 regulation or permit issued pursuant to this title;

23 “(2) to refuse to permit any officer authorized to
24 enforce the provisions of this title to board, search, or
25 inspect a vessel, aircraft, vehicle, or shoreside facility

1 *subject to such person’s control for the purposes of*
2 *conducting any search, investigation, or inspection in*
3 *connection with the enforcement of this title, any reg-*
4 *ulation promulgated under this title, or any Act to*
5 *which this section applies;*

6 *“(3) to forcibly assault, resist, oppose, impede,*
7 *intimidate, or interfere with any such authorized offi-*
8 *cer in the conduct of any search, investigation, or in-*
9 *spection described in paragraph (2);*

10 *“(4) to resist a lawful arrest for any act prohib-*
11 *ited by this section or any Act to which this section*
12 *applies;*

13 *“(5) to interfere with, delay, or prevent, by any*
14 *means, the apprehension, arrest, or detection of an*
15 *other person, knowing that such person has committed*
16 *any act prohibited by this section or any Act to which*
17 *this section applies; or*

18 *“(6) to forcibly assault, resist, oppose, impede,*
19 *intimidate, sexually harass, bribe, or interfere with—*

20 *“(A) any observer on a vessel under this*
21 *title or any Act to which this section applies; or*

22 *“(B) any data collector employed by the*
23 *National Marine Fisheries Service or under con-*
24 *tract to any person to carry out responsibilities*

1 *under this title or any Act to which this section*
 2 *applies.*

3 “(f) *CIVIL PENALTY.*—*Any person who commits any*
 4 *act that is unlawful under subsection (e) shall be liable to*
 5 *the United States for a civil penalty, and may be subject*
 6 *to a permit sanction, under section 308 of the Magnuson-*
 7 *Stevens Fishery Conservation and Management Act (16*
 8 *U.S.C. 1858).*

9 “(g) *CRIMINAL PENALTY.*—*Any person who commits*
 10 *an act that is unlawful under subsection (e)(2), (e)(3),*
 11 *(e)(4), (e)(5), or (e)(6) is deemed to be guilty of an offense*
 12 *punishable under section 309(b) of the Magnuson-Stevens*
 13 *Fishery Conservation and Management Act (16 U.S.C.*
 14 *1859(b)).*

15 “(h) *UTILIZATION OF FEDERAL AGENCY ASSETS.*—”.

16 (b) *ACTIONS TO IMPROVE THE EFFECTIVENESS OF*
 17 *INTERNATIONAL FISHERY MANAGEMENT ORGANIZA-*
 18 *TIONS.*—*Section 608 of such Act (16 U.S.C. 1826i) is*
 19 *amended by—*

20 (1) *inserting before the first sentence the fol-*
 21 *lowing: “(a) IN GENERAL.—”;*

22 (2) *in subsection (a) (as designated by para-*
 23 *graph (1) of this subsection) in the first sentence, in-*
 24 *serting “, or arrangements made pursuant to an*

1 *international fishery agreement,” after “organiza-*
2 *tions”; and*

3 *(3) adding at the end the following new sub-*
4 *sections:*

5 “(b) *DISCLOSURE OF INFORMATION.—The Secretary*
6 *may disclose, as necessary and appropriate, information,*
7 *including information collected under joint authority of the*
8 *Magnuson-Stevens Fishery Conservation and Management*
9 *Act (16 U.S.C. 1801 et seq.) and the Atlantic Tunas Con-*
10 *vention Act of 1975 (16 U.S.C. 71 et seq.), the Western and*
11 *Central Pacific Fisheries Convention Implementation Act*
12 *(16 U.S.C. 6901 et seq.), any other statute implementing*
13 *an international fishery agreement, to any other Federal*
14 *or State government agency, the Food and Agriculture Or-*
15 *ganization of the United Nations, or the secretariat or*
16 *equivalent of an international fishery management organi-*
17 *zation or arrangement made pursuant to an international*
18 *fishery agreement, if such government, organization, or ar-*
19 *rangement, respectively, has policies and procedures to pro-*
20 *tect such information from unintended or unauthorized dis-*
21 *closure.*

22 “(c) *IUU VESSEL LISTS.—The Secretary may—*

23 *“(1) develop, maintain, and make public a list*
24 *of vessels and vessel owners engaged in illegal, unre-*
25 *ported, or unregulated fishing or fishing-related ac-*

1 *tivities in support of illegal, unreported, or unregu-*
2 *lated fishing, including vessels or vessel owners identi-*
3 *fied by an international fishery management organi-*
4 *zation or arrangement made pursuant to an inter-*
5 *national fishery agreement, that—*

6 *“(A) the United States is party to; or*

7 *“(B) the United States is not party to, but*
8 *whose procedures and criteria in developing and*
9 *maintaining a list of such vessels and vessel*
10 *owners are substantially similar to such proce-*
11 *dures and criteria adopted pursuant to an inter-*
12 *national fishery agreement to which the United*
13 *States is a party; and*

14 *“(2) take appropriate action against listed ves-*
15 *sels and vessel owners, including action against fish,*
16 *fish parts, or fish products from such vessels, in ac-*
17 *cordance with applicable United States law and con-*
18 *sistent with applicable international law, including*
19 *principles, rights, and obligations established in ap-*
20 *plicable international fishery management agreements*
21 *and trade agreements.*

22 *“(d) REGULATIONS.—The Secretary may promulgate*
23 *regulations to implement this section.”.*

1 (c) *NOTIFICATION REGARDING IDENTIFICATION OF NA-*
 2 *TIONS.—Section 609(b) of such Act (166 U.S.C. 1826j(b))*
 3 *is amended to read as follows:*

4 “(b) *NOTIFICATION.—The Secretary shall notify the*
 5 *President and that nation of such an identification.”.*

6 (d) *NATIONS IDENTIFIED UNDER SECTION 610.—Sec-*
 7 *tion 610(b)(1) of such Act (16 U.S.C. 1826k(b)(1)) is*
 8 *amended to read as follows:*

9 “(1) *notify, as soon as possible, the President*
 10 *and nations that have been identified under sub-*
 11 *section (a), and also notify other nations whose vessels*
 12 *engage in fishing activities or practices described in*
 13 *subsection (a), about the provisions of this section and*
 14 *this Act;”.*

15 (e) *EFFECT OF CERTIFICATION UNDER SECTION*
 16 *609.—Section 609(d)(3)(A)(i) of such Act (16 U.S.C.*
 17 *1826j(d)(3)(A)(i)) is amended by striking “that has not*
 18 *been certified by the Secretary under this subsection, or”.*

19 (f) *EFFECT OF CERTIFICATION UNDER SECTION*
 20 *610.—Section 610(c)(5) of such Act (16 U.S.C. 1826k(c)(5))*
 21 *is amended by striking “that has not been certified by the*
 22 *Secretary under this subsection, or”.*

23 (g) *IDENTIFICATION OF NATIONS.—*

(1) *SCOPE OF IDENTIFICATION FOR ACTIONS OF FISHING VESSELS.*—Section 609(a) of such Act (16 U.S.C. 1826j(a)) is amended—

(A) in the matter preceding paragraph (1) by striking “2 years” and inserting “3 years”;

(B) in paragraph (1), by inserting “that undermines the effectiveness of measures required by an international fishery management organization, taking into account whether” after “(1)”; and

(C) in paragraph (1), by striking “vessels of”.

(2) *ADDITIONAL GROUNDS FOR IDENTIFICATION.*—Section 609(a) of such Act (16 U.S.C. 1826j(a)) is further amended—

(A) by redesignating paragraphs (1) and (2) in order as subparagraphs (A) and (B) (and by moving the margins of such subparagraphs 2 ems to the right);

(B) by inserting before the first sentence the following:

“(1) *IDENTIFICATION FOR ACTIONS OF FISHING VESSELS.*—”; and

(C) by adding at the end the following:

1 “(2) *IDENTIFICATION FOR ACTIONS OF NATION.*—
 2 *Taking into account the factors described under sec-*
 3 *tion 609(a)(1), the Secretary shall also identify, and*
 4 *list in such report, a nation—*

5 “(A) *if it is violating, or has violated at*
 6 *any point during the preceding three years, con-*
 7 *servation and management measures required*
 8 *under an international fishery management*
 9 *agreement to which the United States is a party*
 10 *and the violations undermine the effectiveness of*
 11 *such measures; or*

12 “(B) *if it is failing, or has failed at any*
 13 *point during the preceding three years, to effec-*
 14 *tively address or regulate illegal, unreported, or*
 15 *unregulated fishing in areas described under*
 16 *paragraph (1)(B).*

17 “(3) *APPLICATION TO OTHER ENTITIES.*—*Where*
 18 *the provisions of this Act are applicable to nations,*
 19 *they shall also be applicable, as appropriate, to other*
 20 *entities that have competency to enter into inter-*
 21 *national fishery management agreements.”.*

22 (3) *PERIOD OF FISHING PRACTICES SUPPORTING*
 23 *IDENTIFICATION.*—*Section 610(a)(1) of such Act (16*
 24 *U.S.C. 1826k(a)(1)) is amended by striking “calendar*
 25 *year” and replacing with “three years”.*

1 (h) *AUTHORIZATION OF APPROPRIATIONS.—*

2 (1) *Section 609(f) of such Act (16 U.S.C. 1826j)*
3 *is amended by—*

4 (A) *striking “2007” and inserting “2010”;*

5 *and*

6 (B) *striking “2013” and inserting “2015”.*

7 (2) *Section 610(f) of such Act (16 U.S.C. 1826k)*
8 *is amended by—*

9 (A) *striking “2007” and inserting “2010”;*

10 *and*

11 (B) *striking “2013” and inserting “2015”.*

12 (i) *TECHNICAL CORRECTIONS.—*

13 (1) *Section 607(2) of such Act (16 U.S.C.*
14 *1826h(2)) is amended by striking “whose vessels” and*
15 *inserting “that”.*

16 (2) *Section 609(d)(1) of such Act (16 U.S.C.*
17 *1826j(d)(1)) is amended by striking “of its fishing*
18 *vessels”.*

19 (3) *Section 609(d)(1)(A) of such Act (16 U.S.C.*
20 *1826j(d)(1)(A)) is amended by striking “of its fishing*
21 *vessels”.*

22 (4) *Section 609(d)(2) of such Act (16 U.S.C.*
23 *1826j(d)(2)) is amended—*

24 (A) *by striking “for certification” and in-*
25 *serting “to authorize”;*

1 (B) by inserting “the importation” after
2 “or other basis”;

3 (C) by striking “harvesting”; and

4 (D) by striking “not certified under para-
5 graph (1)” and inserting “issued a negative cer-
6 tification under paragraph (1)”.

7 (5) Section 610 of such Act (16 U.S.C. 1826k) is
8 amended as follows:

9 (A) In subsection (a)(1), by striking “prac-
10 tices;” and inserting “practices—”.

11 (B) In subsection (c)(1)(A), by striking “,
12 and which, in the case of pelagic longline fish-
13 ing, includes mandatory use of circle hooks, care-
14 ful handling and release equipment, and train-
15 ing and observer programs”.

16 (C) In subsection (c)(4), by striking all pre-
17 ceding subparagraph (B) and inserting the fol-
18 lowing:

19 “(4) *ALTERNATIVE PROCEDURE.*—The Secretary
20 may establish a procedure to authorize, on a ship-
21 ment-by-shipment, shipper-by-shipper, or other basis
22 the importation of fish or fish products from a vessel
23 of a nation issued a negative certification under
24 paragraph (1) if the Secretary determines that such
25 imports were harvested by practices that do not result

1 *in bycatch of a protected marine species, or were har-*
 2 *vested by practices that—*

3 *“(A) are comparable to those of the United*
 4 *States, taking into account different conditions;*
 5 *and”.*

6 **SEC. 3. AMENDMENTS TO THE HIGH SEAS DRIFTNET FISH-**
 7 **ERIES ENFORCEMENT ACT.**

8 *(a) NEGATIVE CERTIFICATION EFFECTS.—Section 101*
 9 *of the High Seas Driftnet Fisheries Enforcement Act (16*
 10 *U.S.C. 1826a) is amended—*

11 *(1) in subsection (a)(2), by striking “recognized*
 12 *principles of” after “in accordance with”;*

13 *(2) in subsection (a)(2)(A), by inserting “or, as*
 14 *appropriate, for fishing vessels of a nation that re-*
 15 *ceives a negative certification under section 609(d) or*
 16 *section 610(c) of the High Seas Driftnet Fishing Mor-*
 17 *atorium Protection Act (16 U.S.C. 1826)” after “(1)”;*

18 *(3) in subsection (a)(2)(B), by inserting before*
 19 *the period the following: “, except for the purposes of*
 20 *inspecting such vessel, conducting an investigation, or*
 21 *taking other appropriate enforcement action”;*

22 *(4) in subsection (b)(1)(A)(i), by striking “or il-*
 23 *legal, unreported, or unregulated fishing” after*
 24 *“driftnet fishing”;*

1 (5) in subsection (b)(1)(B) and subsection (b)(2),
 2 by striking “or illegal, unreported, or unregulated
 3 fishing” after “driftnet fishing” each place it appears;

4 (6) in subsection (b)(3)(A)(i), by inserting “or a
 5 negative certification under section 609(d) or section
 6 610(c) of the High Seas Driftnet Fishing Moratorium
 7 Protection Act (16 U.S.C. 1826j(d), 1826k(c))” after
 8 “(1)(A)”;

9 (7) in subsection (b)(4)(A), by inserting “or
 10 issues a negative certification under section 609(d) or
 11 section 610(c) of the High Seas Driftnet Fishing Moratorium
 12 Protection Act (16 U.S.C. 1826j(d),
 13 1826k(c))” after “paragraph (1)”;

14 (8) in subsection (b)(4)(A)(i), by striking “or il-
 15 legal, unreported, or unregulated fishing” after
 16 “driftnet fishing”; and

17 (9) in subsection (b)(4)(A)(i), by inserting “, or
 18 to address the offending activities for which a nation
 19 received a negative certification under section 609(d)
 20 or 610(c) of the High Seas Driftnet Fishing Moratorium
 21 Protection Act (16 U.S.C. 1826j(d), 1826k(c))”
 22 after “beyond the exclusive economic zone of any na-
 23 tion”.

1 (b) *DURATION OF NEGATIVE CERTIFICATION EF-*
 2 *FECTS.*—Section 102 of such Act (16 U.S.C. 1826b) is
 3 amended by—

4 (1) striking “or illegal, unreported, or unregu-
 5 lated fishing”; and

6 (2) inserting “or effectively addressed the offend-
 7 ing activities for which the nation received a negative
 8 certification under 609(d) or 610(c) of the High Seas
 9 Driftnet Fishing Moratorium Protection Act (16
 10 U.S.C. 1826j(d), 1826k(c))” before the period at the
 11 end.

12 **SEC. 4. AMENDMENTS TO THE TUNA CONVENTIONS ACT OF**
 13 **1950.**

14 Section 8 of the Tuna Conventions Act of 1950 (16
 15 U.S.C. 957) is amended—

16 (1) in subsection (a) by striking “knowingly”;

17 (2) by striking subsections (d) through (g) and
 18 inserting the following:

19 “(d) *ADDITIONAL PROHIBITIONS AND ENFORCE-*
 20 *MENT.*—For additional prohibitions relating to this Act
 21 and enforcement of this Act, see section 606 of the High
 22 Seas Driftnet Fishing Moratorium Protection Act (16
 23 U.S.C. 1826g).”; and

24 (3) by redesignating subsection (h) as subsection
 25 (e).

1 **SEC. 5. AMENDMENTS TO NORTH PACIFIC ANADROMOUS**
 2 **STOCKS ACT OF 1992.**

3 (a) *UNLAWFUL ACTIVITIES.*—Section 810 of the North
 4 *Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5009)*
 5 *is amended—*

6 (1) *in paragraph (5), by inserting “, investiga-*
 7 *tion,” after “search”; and*

8 (2) *in paragraph (6), by inserting “, investiga-*
 9 *tion,” after “search”.*

10 (b) *ADDITIONAL PROHIBITIONS AND ENFORCEMENT.*—
 11 *Section 811 of the Northern Pacific Anadromous Stocks Act*
 12 *of 1992 (16 U.S.C. 5010) is amended to read as follows:*
 13 **“SEC. 811. ADDITIONAL PROHIBITIONS AND ENFORCE-**
 14 **MENT.**

15 *“For additional prohibitions relating to this Act and*
 16 *enforcement of this Act, see section 606 of the High Seas*
 17 *Driftnet Fishing Moratorium Protection Act (16 U.S.C.*
 18 *1826g).”.*

19 **SEC. 6. AMENDMENTS TO THE PACIFIC SALMON TREATY**
 20 **ACT OF 1985.**

21 *Section 8 of the Pacific Salmon Treaty Act of 1985*
 22 *(16 U.S.C. 3637) is amended—*

23 (1) *in subsection (a)(2)—*

24 (A) *by inserting “, investigation,” after*
 25 *“search”; and*

1 (B) by striking “this title;” and inserting
2 “this Act;”;

3 (2) in subsection (a)(3)—

4 (A) by inserting “, investigation,” after
5 “search”; and

6 (B) by striking “subparagraph (2) ;” and
7 inserting “paragraph (2);”;

8 (3) in subsection (a)(5), by striking “this title;
9 or” and inserting “this Act;”;

10 (4) by striking subsections (b) through (f) and
11 inserting the following:

12 “(b) *ADDITIONAL PROHIBITIONS AND ENFORCE-*
13 *MENT.—For additional prohibitions relating to this Act*
14 *and enforcement of this Act, see section 606 of the High*
15 *Seas Driftnet Fishing Moratorium Protection Act (16*
16 *U.S.C. 1826g).’.*”

17 **SEC. 7. AMENDMENTS TO THE WESTERN AND CENTRAL PA-**
18 **CIFIC FISHERIES CONVENTION IMPLEMENTA-**
19 **TION ACT.**

20 *The Western and Central Pacific Fisheries Convention*
21 *Implementation Act (title V of Public Law 109–479) is*
22 *amended—*

23 (1) in section 503(a) (16 U.S.C. 6902(a)), by
24 striking “one of whom shall be the chairman or a
25 member of the Western Pacific Fishery Management

1 *Council and the Pacific Fishery Management Coun-*
2 *cil” and inserting “one of whom shall be a member*
3 *of the Western Pacific Fishery Management Council,*
4 *and one of whom shall be a member of the Pacific*
5 *Fishery Management Council”;*

6 *(2) in section 503(c)(1) (16 U.S.C. 6902(c)(1)),*
7 *by striking “shall be considered to be Federal employ-*
8 *ees” and all that follows through the end of the sen-*
9 *tence and inserting “shall not be considered Federal*
10 *employees except for purposes of injury compensation*
11 *and tort claims liability as provided in chapter 81 of*
12 *title 5, United States Code, and chapter 171 of title*
13 *28, United States Code.”;*

14 *(3) in section 503(d)(2)(B) (16 U.S.C.*
15 *6902(d)(2)(B)), by amending clause (ii) to read as*
16 *follows:*

17 *“(ii) shall not be considered Federal*
18 *employees while performing service except*
19 *for the purposes of injury compensation and*
20 *tort claims liability as provided in chapter*
21 *81 of title 5, United States Code, and chap-*
22 *ter 171 of title 28, United States Code.”;*

23 *(4) by amending section 506(c) (16 U.S.C.*
24 *6905(c)) to read as follows:*

1 “(c) *ADDITIONAL PROHIBITIONS AND ENFORCE-*
 2 *MENT.—For additional prohibitions relating to this Act*
 3 *and enforcement of this Act, see section 606 of the High*
 4 *Seas Driftnet Fishing Moratorium Protection Act (16*
 5 *U.S.C. 1826g).’; and*

6 *(5) in section 507(a)(2) (16 U.S.C. 6906(a)(2))*
 7 *by striking “suspension, on” and inserting “suspen-*
 8 *sion, of”.*

9 **SEC. 8. AMENDMENTS TO THE SOUTH PACIFIC TUNA ACT**
 10 **OF 1988.**

11 *The South Pacific Tuna Act of 1988 is amended—*

12 *(1) in section 5(a) (16 U.S.C. 973c(a))—*

13 *(A) in paragraph (8), by inserting “, inves-*
 14 *tigation,” after “search”; and*

15 *(B) in paragraph (10), by inserting “, in-*
 16 *vestigation,” after “search”; and*

17 *(2) by striking sections 7 and 8 (16 U.S.C. 973e*
 18 *and 973f) and inserting the following:*

19 **“SEC. 7. ADDITIONAL PROHIBITIONS AND ENFORCEMENT.**

20 *“For additional prohibitions relating to this Act and*
 21 *enforcement of this Act, see section 606 of the High Seas*
 22 *Driftnet Fishing Moratorium Protection Act (16 U.S.C.*
 23 *1826g).’.*

1 **SEC. 9. AMENDMENTS TO THE ANTARCTIC MARINE LIVING**
 2 **RESOURCES CONVENTION ACT.**

3 *The Antarctic Marine Living Resources Convention*
 4 *Act of 1984 is amended—*

5 *(1) in section 306 (16 U.S.C. 2435)—*

6 *(A) in paragraph (3), by striking “which he*
 7 *knows, or reasonably should have known, was”;*

8 *(B) in paragraph (4), by inserting “, inves-*
 9 *tigation,” after “search”; and*

10 *(C) in paragraph (5), by inserting “, inves-*
 11 *tigation,” after “search”;*

12 *(2) in section 307 (16 U.S.C. 2436)—*

13 *(A) by inserting “(a) IN GENERAL.—” be-*
 14 *fore the first sentence; and*

15 *(B) by adding at the end the following:*

16 *“(b) REGULATIONS TO IMPLEMENT CONSERVATION*
 17 *MEASURES.—*

18 *“(1) IN GENERAL.—Notwithstanding subsections*
 19 *(b), (c), and (d) of section 553 of title 5, United*
 20 *States Code, the Secretary of Commerce may publish*
 21 *in the Federal Register a final regulation to imple-*
 22 *ment any conservation measure for which the Sec-*
 23 *retary of State notifies the Commission under section*
 24 *305(a)(1)—*

25 *“(A) that has been in effect for 12 months*
 26 *or less;*

1 “(B) that is adopted by the Commission;
2 and

3 “(C) with respect to which the Secretary of
4 State does not notify Commission in accordance
5 with section 305(a)(1) within the time period al-
6 lotted for objections under Article IX of the Con-
7 vention.

8 “(2) *ENTERING INTO FORCE*.—Upon publication
9 of such regulation in the *Federal Register*, such con-
10 servation measure shall enter into force with respect
11 to the United States.”; and

12 (3) by striking sections 308 and 309 (16 U.S.C.
13 2437 and 2438) and inserting the following:

14 **“SEC. 308. ADDITIONAL PROHIBITIONS AND ENFORCE-**
15 **MENT.**

16 *“For additional prohibitions relating to this Act and*
17 *enforcement of this Act, see section 606 of the High Seas*
18 *Driftnet Fishing Moratorium Protection Act (16 U.S.C.*
19 *1826g).”.*

20 **SEC. 10. AMENDMENTS TO THE ATLANTIC TUNAS CONVEN-**
21 **TION ACT.**

22 *The Atlantic Tunas Convention Act of 1975 is amend-*
23 *ed—*

24 (1) in section 6(c)(2) (16 U.S.C.
25 971d(c)(2)(2))—

- 1 (A) by striking “(A)” and inserting “(i)”;
- 2 (B) by striking “(B)” and inserting “(ii)”;
- 3 (C) by inserting “(A)” after “(2)”; and
- 4 (D) by adding at the end the following:

5 “(B) Notwithstanding the requirements of subpara-
 6 graph (A) and subsections (b) and (c) of section 553 of title
 7 5, United States Code, the Secretary may issue final regula-
 8 tions to implement Commission recommendations referred
 9 to in paragraph (1) concerning trade restrictive measures
 10 against nations or fishing entities.”;

11 (2) in section 7 (16 U.S.C. 971e) by striking sub-
 12 sections (e) and (f) and redesignating subsection (g)
 13 as subsection (e);

14 (3) in section 8 (16 U.S.C. 971f)—

- 15 (A) by striking subsections (a) and (c); and
- 16 (B) by inserting before subsection (b) the
- 17 following:

18 “(a) For additional prohibitions relating to this Act
 19 and enforcement of this Act, see section 606 of the High
 20 Seas Driftnet Fishing Moratorium Protection Act (16
 21 U.S.C. 1826g).”;

22 (4) in section 8(b) by striking “the enforcement
 23 activities specified in section 8(a) of this Act” each
 24 place it appears and inserting “enforcement activities

1 *with respect to this Act that are otherwise authorized*
 2 *by law”;* and

3 *(5) by striking section 11 (16 U.S.C. 971j) and*
 4 *redesignating sections 12 and 13 as sections 11 and*
 5 *12, respectively.*

6 **SEC. 11. AMENDMENTS TO THE HIGH SEAS FISHING COM-**
 7 **PLIANCE ACT OF 1965.**

8 *Section 104(f) of the High Seas Fishing Compliance*
 9 *Act of 1995 (16 U.S.C. 5503(f)) is amended to read as fol-*
 10 *lows:*

11 “(f) *VALIDITY.*—A permit issued under this section for
 12 a vessel is void if—

13 “(1) any other permit or authorization required
 14 for the vessel to fish is expired, revoked, or suspended;
 15 or

16 “(2) the vessel is no longer documented under the
 17 laws of the United States or eligible for such docu-
 18 mentation.”.

19 **SEC. 12. AMENDMENTS TO THE PACIFIC WHITING ACT OF**
 20 **2006.**

21 (a) *SCIENTIFIC EXPERTS ON JOINT TECHNICAL COM-*
 22 *MITTEE.*—Section 605(a)(1) of the Pacific Whiting Act of
 23 2006 (16 U.S.C. 7004)(a)(1)) is amended to read as follows:

24 “(1) *IN GENERAL.*—The Secretary, in consulta-
 25 tion with the Secretary of State, shall appoint no

15 *SEC. 13. AMENDMENTS TO THE DOLPHIN PROTECTION*
16 *CONSUMER INFORMATION ACT.*

20 “(e) *ADDITIONAL PROHIBITIONS AND ENFORCE-*
21 *MENT.—For additional prohibitions relating to this Act*
22 *and enforcement of this Act, see section 606 of the High*
23 *Seas Driftnet Fishing Moratorium Protection Act (16*
24 *U.S.C. 1826g).’’.*

1 **SEC. 14. AMENDMENTS TO THE NORTHERN PACIFIC HAL-**
 2 **IBUT ACT OF 1982.**

3 (a) *PROHIBITED ACTS.*—Section 7 of the Northern Pa-
 4 cific Halibut Act of 1982 (16 U.S.C. 773e) is amended—

5 (1) in paragraph (a) by redesignating subpara-
 6 graphs (1) through (6) as subparagraphs (A) through
 7 (F);

8 (2) by redesignating paragraphs (a) and (b) as
 9 paragraphs (1) and (2), respectively;

10 (3) by in paragraph (1)(B), as so redesignated,
 11 by inserting “, investigation,” before “or inspection”;

12 (4) by in paragraph (1)(C), as so redesignated,
 13 by inserting “, investigation,” before “or inspection”;

14 (5) in paragraph (1)(E), as so redesignated, by
 15 striking “or” after the semicolon; and

16 (6) in paragraph (1)(F), as so redesignated, by
 17 striking “section.” and inserting “section; or”.

18 (b) *ENFORCEMENT POWERS.*—Section 11 of the North-
 19 ern Pacific Halibut Act of 1982 (16 U.S.C. 773i) is amend-
 20 ed by adding at the end the following:

21 “(g) In addition to the powers of officers authorized
 22 pursuant to subsection (b), any officer who is authorized
 23 by the Secretary, or by the head of any Federal or State
 24 agency that has entered into an agreement with the Sec-
 25 retary under subsection (a), to enforce the Convention, this
 26 Act, or any regulation adopted under this Act, may—

1 “(1) search or inspect any facility or conveyance
2 used or employed in, or which reasonably appears to
3 be used or employed in, the storage, processing, trans-
4 port, or trade of fish or fish products;

5 “(2) inspect records pertaining to the storage,
6 processing, transport, or trade of fish or fish products;
7 and

8 “(3) detain, for a period of up to 5 days, any
9 shipment of fish or fish product imported into, landed
10 on, introduced into, exported from, or transported
11 within the jurisdiction of the United States, or, if
12 such fish or fish product is deemed to be perishable,
13 sell and retain the proceeds therefrom for a period of
14 up to 5 days.”.

15 **SEC. 15. AMENDMENTS TO THE NORTHWEST ATLANTIC**
16 **FISHERIES CONVENTION ACT OF 1995.**

17 Section 207 of the Northwest Atlantic Fisheries Con-
18 vention Act of 1995 (16 U.S.C. 5606) is amended—

19 (1) in the section heading, by striking “**AND**
20 **PENALTIES**” and inserting “**AND ENFORCE-**
21 **MENT**”;

22 (2) in subsection (a)(2), by inserting “, inves-
23 tigation,” before “or inspection”;

24 (3) in subsection (a)(3), by inserting “, inves-
25 tigation,” before “or inspection”; and

1 (4) *by striking subsections (b) through (f) and*
 2 *inserting the following:*

3 “(b) *ADDITIONAL PROHIBITIONS AND ENFORCE-*
 4 *MENT.—For additional prohibitions relating to this Act*
 5 *and enforcement of this Act, see section 606 of the High*
 6 *Seas Driftnet Fishing Moratorium Protection Act (16*
 7 *U.S.C. 1826g).’.*”.

8 **SEC. 16. AMENDMENT TO THE MAGNUSON-STEVENSON FISH-**
 9 **ERY CONSERVATION AND MANAGEMENT ACT.**

10 *Section 307(1)(Q) of the Magnuson-Stevens Fishery*
 11 *Conservation and Management Act (16 U.S.C. 1857(1)(Q))*
 12 *is amended by inserting before the semicolon the following:*
 13 *“or any treaty or in contravention of any binding conserva-*
 14 *tion measure adopted by an international agreement or or-*
 15 *ganization to which the United States is a party”.*

16 **SEC. 17. INTERNATIONAL COOPERATION AND ASSISTANCE**
 17 **PROGRAM.**

18 (a) *INTERNATIONAL COOPERATION AND ASSISTANCE*
 19 *PROGRAM.—The Secretary of Commerce, acting through the*
 20 *National Marine Fisheries Service, may establish an inter-*
 21 *national cooperation and assistance program, including*
 22 *grants, to provide assistance for sustainable fishery man-*
 23 *agement capacity building efforts.*

24 (b) *AUTHORIZED ACTIVITIES.—In carrying out the*
 25 *program, the Secretary may—*

1 (1) *provide funding and technical expertise to*
2 *other nations to assist them in addressing illegal, un-*
3 *reported, or unregulated fishing activities;*

4 (2) *provide funding and technical expertise to*
5 *other nations to assist them in reducing the loss and*
6 *environmental impacts of derelict fishing gear, reduc-*
7 *ing the bycatch of living marine resources, and pro-*
8 *moting international marine resource conservation;*

9 (3) *provide funding, technical expertise, and*
10 *training to other nations to aid them in building ca-*
11 *capacity for enhanced fisheries management, fisheries*
12 *monitoring, catch and trade tracking activities, en-*
13 *forcement, and international marine resource con-*
14 *servation;*

15 (4) *establish partnerships with other Federal*
16 *agencies or non-governmental organizations, as ap-*
17 *propriate, to ensure that fisheries development assist-*
18 *ance to other nations is directed toward projects that*
19 *promote sustainable fisheries; and*

20 (5) *conduct outreach and education efforts in*
21 *order to promote public and private sector awareness*
22 *of international fisheries sustainability issues, includ-*
23 *ing the need to combat illegal, unreported, or unregu-*
24 *lated fishing activity and to promote international*
25 *marine resource conservation.*

1 (c) *GUIDELINES.—The Secretary may establish guide-*
2 *lines necessary to implement the program.*

3 (d) *AUTHORIZATION OF APPROPRIATIONS.—There is*
4 *authorized to be appropriated to the Secretary \$5,000,000*
5 *for each of fiscal years 2010 through 2015 to carry out this*
6 *section.*

Union Calendar No. 126

11TH CONGRESS
1ST Session

H. R. 1080

[Report No. 111-228]

A BILL

To strengthen enforcement mechanisms to stop illegal, unreported, and unregulated fishing, and for other purposes.

JULY 24, 2009

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed